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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/366,441	08/03/1999	Mark A. Campbell	5500-48700	3069
7590 04/20/2004			EXAMINER	
KEVIN L DAFFER CONLEY ROSE & TAYON P C P O BOX 398 AUSTIN, TX 787670398			SIEFKE, SAMUEL P	
			ART UNIT	PAPER NUMBER
			1743	

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/366,441	CAMPBELL ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Samuel P Siefke	1743	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 1/29/04
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments filed 1/29/04 have been fully considered but they are not persuasive. Applicant argues "Tawarayama does not teach a sensor configured to selectively receive a first sample flow of a first chemical mixture from a first chemical vessel and to selectively receive a second sample flow of second chemical mixture from a second chemical vessel.... Tawarayam teaches how a sample from single source 202 is prepared for testing and then tested by a detection unit." Examiner is relying on 202 being the first sample, and the second sample is created in the second sample introduction unit, the decomposed sample is introduced in the second sample loop, thus creating a second sample out of the first sample. Applicant points out that the sample mixture is then heated and decomposed by thermostat 303 in pre- treatment unit 3 (col. 4, line 60 - col. 5, line 21). The sample mixture is then injected by the second sample introduction unit 4 into coloring unit 6 where it is mixed with coloring reagent 602 (col. 5, lines 22-52). Examiner recognizes there is only a single sample source as the Applicant is pointing out, but **two samples flows** and **two separate samples** (first chemical mixing vessel (sample loop 204), second chemical mixing vessel (second sample loop 412)) are created by one sample source. Examiner would also like to point out to col. 5, lines 5-7 "Meanwhile, another sample is similarly introduced into a suitable tube, for example the tube 311 in the thermostat 303 by swithching the valves 301 and 302 to be decomposed by heating. In this way, other samples are sequentially introduced into the

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tubes 312 to 315 until the decomposition of the sample in the tube 310 is completed.

Therefore Tawarayama teaches each limitation of claim 1.

Applicant argues, Tawarayama does not teach a purge system. Tawarayam teaches a purge system (col. 6, lines 3-6) for purging the system of sample fluids. This does so by pumping carrier solution 406 through the system.

Applicant argues, Tawarayama does not teach displaying the samples attributes. It is inherent that use of a colorimetric reaction is a type of display (optical result, absorbance) of the results from the phosphorus and nitrogen tests performed on the samples.

Applicant argues, EP 544 does not teach a sensor configured to selectively receive a first sample flow of a first chemical mixture from a first chemical vessel and to selectively receive a second sample flow of second chemical mixture from a second chemical vessel." The Office is relying on the metering of the flow of the sample fluids for the sensor limitation. Claim 1 of the instant application, only discloses a sensor, the function or specific analysis the sensor performs is not specified. So it is the claims is read to is broadest scope, and that includes measuring the flow of a sample (page 2, line 118-19). This was the Applicant's only disagreement on claim 1.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims **1-8** are rejected under 35 U.S.C. 102(b) as being anticipated by

Tawarayama et al. (USPN 5,783,740).

Tawarayama discloses an analytical system for monitoring trace elements in a liquid sample. The apparatus comprises a first sample introduction unit (fig. 1, ref. 2 and 203; col. 4, lines 45-59), a second sample introduction unit (fig. 1, ref. 4 and 406; col. 5, lines 22-47); a sensor (fig. 1, ref. 7) configured to selectively (control unit (9)) receive a first and second sample flow wherein the sensor measures the concentration of a chemical interest (phosphorus and nitrogen) of each sample flow (fig. 2, col. 6, lines 56- col. 7, line 34). A control unit (8) controls all operations of this system, which include; constant flow rate (col. 3, lines 2-5); a purging system for cleaning the insides of the flow passage (col. 6, lines 1-6). (col. 3, lines 6-65).

Claims **1-7** and **9-15** are rejected under 35 U.S.C. 102(b) as being anticipated by Ep 0543544 ('544).

Ep 544 discloses an apparatus for analyzing a liquid specimen that comprises multiple chemical diluting fluid holding vessels (c1-c5); a sample valve (11) which allows for switching between sample dilution stages and sample analysis; a flow metering passage (page 2, lines 18-19); a control means for controlling all operations of the apparatus (page 3, lines 19-21); a purging line for cleaning the passages (page 3, lines 55-56); a detector (sensor) for analyzing a sample for mean red corpuscular hemoglobin

concentration (page 4, lines 40-54 ; claims 1-7); a work load setting for predetermined characteristics of a sample (page 5, lines 1-27).

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

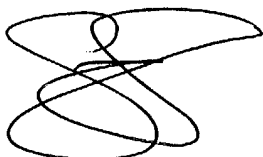
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Samuel P Siefke whose telephone number is 571-272-1262. The examiner can normally be reached on M-F 7:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on 571-272-1700. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sam P. Siefke

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

April 15, 2004

A handwritten signature in black ink, appearing to read "Jill Warden".

Jill Warden  
Supervisory Patent Examiner  
Technology Center 1700